

STATE OF MICHIGAN
COURT OF APPEALS

SHEILA CROWELL-HENDERSON,

Plaintiff-Appellant,

v

GEOFFREY M. HENDERSON,

Defendant-Appellee.

UNPUBLISHED

June 30, 1998

No. 200096

Ingham Circuit Court

LC No. 95-084960 DZ

Before: Sawyer, P.J., and Kelly and Doctoroff, JJ.

PER CURIAM.

In this divorce action, plaintiff appeals by right from an order granting primary physical custody and parental time of the parties' daughter to defendant. We affirm.

When a custody dispute is between parents, the best interests of the child shall control. MCL 722.25; MSA 25.312(5); *Currey v Currey*, 109 Mich App 111; 310 NW2d 913 (1981). This Court must affirm a trial court's custody decisions unless the trial court's findings were against the great weight of the evidence, the trial court committed a palpable abuse of discretion, or the trial court made a clear legal error on a major issue. MCL 722.28; MSA 25.312(8); *Fletcher v Fletcher*, 447 Mich 871, 876-877 (Brickley, J.), 900 (Griffin, J.); 526 NW2d 889 (1994); *York v Morofsky*, 225 Mich App 333, 335; 571 NW2d 524 (1997).

Plaintiff first argues that the trial court committed error requiring reversal in not seeking an updated Friend of the Court report before originally deciding the parties' parental time. A Friend of the Court report is statutorily authorized by MCL 552.505; MSA 25.176(5) and MCL 722.27; MSA 25.312(7) in order to aid the trial court in the determination of parental time. However, no authority exists for plaintiff's proposition that the trial court require an updated Friend of the Court report when deciding parental time. On the contrary, numerous cases have limited the use to which a trial court may consider a Friend of the Court report when making its determinations. *Duperon v Duperon*, 175 Mich App 77, 79; 437 NW2d 318 (1989); *Crampton v Crampton*, 178 Mich App 362, 363; 443 NW2d 419 (1989); *Truitt v Truitt*, 172 Mich App 38, 43-44; 431 NW2d 454 (1988). In the instant case, the trial court did not err in failing to request an updated Friend of the Court report before making its

temporary parental time determination. The settlement transcript of August 12, 1996 indicates that the trial court was fully aware of defendant's move to California. A new report would have merely delayed the proceedings further and added nothing to the trial court's determination at that time. Furthermore, the trial court did order that a court-appointed psychologist conduct a psychological evaluation of the child concerning the impact of this temporary parenting time schedule on her for the proposed March 3, 1997 re-evaluation of parenting time. It is clear to this Court that the actions of the trial court in this instance did not constitute an abuse of discretion.

Plaintiff next argues that the trial court erred when it originally decided to grant, on a temporary basis pending the outcome of a permanent child custody hearing, joint parental time in alternating two-week increments, since the trial court did not specifically weigh the factors under MCL 722.23; MSA 25.312, and instead upheld the parties' previous agreement as to parental time. This argument is without merit. This Court has held that in cases where the parties are in agreement regarding custody and visitation and present the court with such an agreement, the trial court need not expressly articulate each of the best interest factors. *Koron v Melendy*, 207 Mich App 188, 191-193; 523 NW2d 870 (1994). Implicit in the court's acceptance of the parties' agreement is its determination that the arrangement is in the child's best interests. *Id.* This is also in accord with this state's public policy of encouraging voluntary agreements between the parties in domestic relations matters. MCL 552.501; MSA 25.176(1).

Plaintiff next argues that the trial court erred in refusing to allow plaintiff to obtain her own psychological evaluation of the child. Given the fact that a psychological evaluation of a child in a custody dispute is a discretionary matter, MCL 722.27a; MSA 25.312(7), and that the trial court in this case did order an independent evaluation of the minor child by a psychologist, we cannot conclude that the trial court abused its discretion in refusing to allow the parties to obtain their own psychological evaluations of their daughter.

Plaintiff's next argument concerns the trial court's decision regarding the amount of defendant's child support payments. Plaintiff claims that the Friend of the Court report, on which the trial court relied, did not take into account defendant's increased earnings after the filing of the report. This issue was rendered moot by the trial court's April 30, 1997 order by which it ordered a more current child support report from the Friend of the Court. This Court will not entertain moot issues or decide moot cases. *East Grand Rapids School Dist v Kent Co*, 415, Mich 381, 390; 330 NW2d 7 (1982); *International Union v Michigan*, 211 Mich App 20, 29; 535 NW2d 210 (1995).

As to defendant's motions for sanctions pursuant to MCR 7.216(C), we determine that sanctions against plaintiff's counsel are not appropriate at this time. Defendant has presented no evidence that plaintiff's appeal is vexatious in nature.

Affirmed.

/s/ David H. Sawyer

/s/ Michael J. Kelly

/s/ Martin M. Doctoroff